

EXHIBIT 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION : *Case No. 1:17-md-2804*
OPIATE LITIGATION : *Cleveland, Ohio*
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FINAL PRETRIAL PROCEEDINGS : *Tuesday, October 15, 2019*
: *12:34 p.m.*
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TRANSCRIPT OF FINAL PRETRIAL PROCEEDINGS
BEFORE THE HONORABLE DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE

SPECIAL MASTER: DAVID R. COHEN

Court Reporter: Donnalee Cotone, RMR, CRR, CRC
United States District Court
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1 actual evidence of it and it's bearing on this case, well,
2 then, that may be relevant.

3 All right. Number 30, I think, both sides agree that
4 the fact of the grand jury proceeding is inadmissible. So
13:00:44 5 there won't be any reference to a grand jury investigation,
6 but if there are underlying facts that led to an
7 investigation, that's fair game for either side.

8 31 is granted as unopposed.

9 32 is granted as unopposed.

13:01:08 10 33, again, is granted. We're not going to refer to
11 general investigations of people. That's not relevant. If
12 it led to an indictment and the charge is somehow relevant,
13 then so be it.

14 34 represented about podcasts or media coverage
13:01:30 15 regarding Cuyahoga County courts, that's -- I don't
16 understand exactly what plaintiffs are trying to preclude or
17 what the defendants are trying to admit, so that's denied
18 without prejudice.

19 35, reference to any investigation regarding the death
13:01:51 20 of Aniya Day Garrett. I'm not going to issue a blanket
21 exclusion of this. I'm not sure how it's going to be
22 relevant. So before someone introduces that, they're going
23 to have to make a showing that it's relevant.

24 36, again, relates to corruption in Summit County.
13:02:17 25 The same thing, there's going to be no testimony about

1 allegations. If there's evidence, actual evidence of
2 corruption, it may be relevant.

3 37, deaths of an individual while in the Summit County
4 Jail. That's denied without prejudice. Again, I fail to
13:02:38 5 see how it would be relevant.

6 All right. Turning to Cardinal's motions *in limine*.

7 Number 1, evidence concerning 14,000 suspicious orders
8 which Cardinal did not report and did not ship, that's
9 denied.

13:02:54 10 Number 2 is denied, evidence and argument containing
11 an interest in gossip e-mail.

12 Number 3, evidence based on data produced by Cardinal
13 for the years 1996 through 2005 are denied, but all sides
14 are to be careful so we're not comparing apples with oranges
13:03:19 15 and drawing conclusions therefrom. So if you have 20 years
16 of data, you can't say it leads to the same inference as 10
17 years, or the numbers are equivalent.

18 Turning to Track One defendants' omnibus motions *in*
19 *limine*. Number 1, evidence or argument concerning future
13:03:42 20 damages, that's granted, because plaintiffs can't seek
21 future damages.

22 Number 2 is denied without prejudice. Plaintiffs can
23 introduce individualized evidence of description and
24 shipments, but only if it was produced by the plaintiffs
13:04:08 25 during discovery.

1 Number 3, I can't rule on these in the abstract, so
2 it's denied without prejudice.

3 Number 4, lay and hearsay testimony about prescription
4 opioids being a gateway. It's denied as to factual
13:04:46 5 testimony, testimony about facts is allowed. I'm not going
6 to allow fact witnesses to give expert testimony, however.

7 Number 5, evidence concerning lobbying, that's denied
8 without prejudice. It may be relevant. Obviously, everyone
9 is free to lobby state, local, federal officials. And
13:05:14 10 there's nothing wrong about that, but it may be relevant to
11 go to intent, or it may be relevant -- again, there's a wide
12 open strike zone about what the federal government did or
13 didn't do, and it may be relevant as to why the federal
14 government did or didn't do something.

13:05:31 15 Number 6 I'm denying. Shipments to areas of the
16 country outside of Summit and Cuyahoga County may be
17 relevant.

18 I'm denying number 7.

19 I'm denying number 8. We've already addressed number
13:05:52 20 eight with Daubert rulings. I don't need to do it again.

21 Number 9, denying.

22 And 10, people can use charts and data.

23 Number 11, I'm granting in part and denying in part.
24 Evidence as to defendants' overall financial conditions,
13:06:19 25 sales, revenues, are not relevant. Defendants' evidence as